

Applicants' attorneys appreciate the thorough search and explanatory comments of the examiner in regard to Claims 1-7.

Claim 1 was rejected pursuant to 35 U.S.C. § 103 (a) as being unpatentable over McLay U.S. Patent '589 in view of Landry U.S. Patent '387. That Claim has been rewritten as new Claim 8 and is now directed to a bracket with two wings that are positioned in an angular configuration in relation to one another which is neither suggested nor taught by any of the references, either singly or in combination with another reference. Specifically, new Claim 8 includes the following limitations:

... the wing portions each having an aperture therethrough, such that line projections from the aperture of the base to each wing aperture intersect at the aperture of the base at about a 90° angle

McLay neither teaches nor suggests such an alignment between the wings of a bracket. *In re Sernaker*, 702 F.2d 989, 994, 217 USPQ 1 (Fed. Cir. 1983). Indeed, McLay discourages such angular alignment and thus teaches the opposite, *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125 (Fed. Cir. 1984), because the brackets disclosed and claimed in McLay can function effectively to achieve their intended purpose of "supporting timber logs in a stack" if they are positioned at the ends of their common base and directly opposing one another. Such alignment only allows for an angular arrangement where the angle between the wings of that bracket are at 180°. An angular arrangement of less than 180° effectively destroys the function of the bracket

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disclosed and claimed in McLay. *Id.* (prima facie case of obviousness not made where modification of cited reference destroyed the function of the claimed reference).

Moreover, as noted in the notice of rejection, McLay neither teaches nor suggests that its claimed brackets be used in a cable tension system that uses "rope, cord or the like" for reducing sway and dampening under seismic conditions. McLay brackets are simply brackets that can be used to facilitate stacking of timber. That reference is not, therefore, within the field of endeavor of the inventor, nor is it "reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1447, 24 USPQ.2d 1443 (1992) (concluding that there was an improper combination of references from nonanalogous and thus lack of a prima facie case).

Similarly, there is no suggestion in Landry that the "line holder" it discloses and claims may be fastened in any manner. Indeed, Landry when viewed as a whole suggests that the line holder must remain free to function as intended. Moreover, Landry suggests that its opposite ends remain at 180° orientation in relation to one another, and thus similarly discourages any other angular arrangement.

In addition, Black in view of McLay and Landry does not support a 103 (a) rejection. Black discloses and claims an elongated toggle which is symmetrical about a center hole. The wings of the toggle in Black are in a 180° angular configuration with respect to one another and are both disposed at a 90° angle with respect to the center portion of the toggle's base, thus forming two symmetrically L-shaped parts joined about the axis of symmetry which axis runs

along the length of one leg of each L. In essence, the toggle in Black is T-shaped. The claimed bracket is a single L-shaped unitary piece in that the two wing portions are at 90° in relation to one another.

Moreover, there is no suggestion or teaching in Black directing one skilled in the art to modify the T-shaped toggle by raising its ends at an angle with respect to its center hole; nor is there a suggestion or teaching directing one of ordinary skill in the art to modify the toggle such that its ends will be at an angle less than 180° apart. In fact, the first claim in Black teaches that the toggle remain elongated.

Additionally, the toggle in Black relates to an industry outside of the inventor's field of endeavor, and is not reasonably directed at the same problem with which the inventor is concerned.

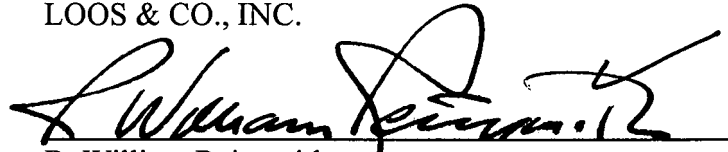
New Claim 9 depends from new Claim 8 and claims the preferred embodiment of the restraint bracket.

Claim 3 was objected to as being dependent upon a rejected base claim. That claim was indicated to be allowable if rewritten in independent form. Accordingly, Claim 3 has been rewritten in independent form as Claim 10.

For the foregoing reasons, the rejection of Claim 1 as it may now apply to new Claim 8 is respectfully requested to be withdrawn.

In view of the foregoing amendments and remarks, this application is now believed to be in condition for allowance. Such action, with the allowance of new claims 8, 9 and 10, is earnestly solicited.

Respectfully submitted,
LOOS & CO., INC.

A handwritten signature in black ink, appearing to read "R. William Reinsmith", is written over a horizontal line.

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